

MARK E. VOVOS, #4474  
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*Attorney for Charles Harrison Barbee*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

United States of America,	)	
	)	<b>NO. 2:96-CR-00258-WFN-1</b>
Plaintiff,	)	
vs.	)	Motion to Strike and Continue
	)	Sentencing Date and Other
Charles Harrison Barbee,	)	Associated Due Dates
	)	
Defendant.	)	<b>03/02/20 @ 6:30 p.m. –</b>
	)	<b>Without oral argument</b>

Motion

Charles Harrison Barbee, by and through counsel, Mark E. Vovos, moves this Court to strike and continue all dates currently set in this matter, including the sentencing date currently set for March 24, 2020, and all associated due dates (objections to PSIR and sentencing memorandum) as well.

1 I was appointed on February 7, 2020 to substitute for the CJA attorney who  
2 handled the trial on behalf of Mr. Barbee in this matter. This is a complex  
3 sentencing issue involving application of the sentencing guidelines, stacking of  
4 offenses and factual issues concerning Mr. Barbee's incarceration since sentencing.  
5 Your declarant needs more time to research, prepare and be effective.  
6

7 This motion is based upon the records and files herein, and the declaration of  
8 counsel.  
9

10 Declaration of Mark E. Vovos

11 Mark E. Vovos, being first duly sworn, on oath, deposes and states:

12 1. I am over the age of 18 years and competent to make this declaration  
13 based upon my personal information and belief. I would testify to these statements  
14 in a court of law, and offer to prove the following under penalty of perjury.  
15

16 2. I am the recently appointed attorney for Charles Harrison Barbee for  
17 purposes of a *de novo* sentencing order.

18 3. Objections to the PSIR are currently due on February 28, 2020;  
19 Defendant's sentencing memorandum is due on March 9, 2020, and the sentencing  
20 hearing is set for March 24, 2020.  
21

1           4.     Mr. Barbee is currently in a federal correctional institution in  
2 Alabama. He is not yet in transit to Spokane, and counsel has not had an  
3 opportunity to review the PSIR with him or meet with him.

4           5.     Your declarant also needs time to obtain and review records from the  
5 previous trial, as well as the sentencing of the Court as it applies to the current *de*  
6 *novo* sentencing of Mr. Barbee.

7           6.     I have received some materials from former counsel for Mr. Barbee,  
8 but there are other materials that are not in my possession, including letters and  
9 records from the federal institution, as well as documents concerning Mr. Barbee  
10 since he has been incarcerated.

11           7.     Counsel needs time to review sentencing issues with appellate counsel  
12 in the Federal Defender's Office and obtain documents from them concerning  
13 sentencing as well as previous CJA trial counsel, and have the time to meet  
14 personally with Mr. Barbee concerning sentencing issues once he is returned to this  
15 district.

16           8.     I have not had sufficient time to talk with Mr. Barbee on the phone  
17 concerning matters that pertain to his sentencing and documents that he has  
18

1 received being forwarded to other attorneys and not in my possession, nor review  
2 other documents from other sources that pertain to the sentencing issue.

3 9. The sentencing issues are complex, and involve an analysis which will  
4 take more time and research. Counsel would request a time that is consistent with  
5 this Court's and counsels' schedule in the interests of justice and fairness, as well  
6 as to accommodate effective preparation by current counsel.  
7

8 10. A sentencing date in September of 2020, with other compliances dates  
9 for objections and sentencing memorandums prior to that time, is respectfully  
10 requested.  
11

12 11. Counsel has talked with the United States Attorney, and he takes no  
13 position as to this continuance request.  
14

15 RESPECTFULLY SUBMITTED this 24th day of February, 2020.

16 *s/ Mark E. Vovos, #4474*  
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23  
24  
25

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2020, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System which will send notification of such filing to Joseph Harrington, Assistant United States Attorney

*s/ Mark E. Vovos, #4474*

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